

**SCHEDULE 3 - CONTRACT PRICE AND PAYMENT**

**1. Definitions**

1.1 Without prejudice to Schedule 1 (Definitions and Interpretations), for the purposes of this Schedule 3, the following terms shall have the following meanings:

Term	Definition
Economic, Technical and Organisational (“ <b>ETO</b> ”) Redundancy	Means those redundancies which occur for reasons relating to: (1) the profitability or market performance of the Contractor’s business (an economic reason); (2) the nature of the equipment or production processes used (a technical reason); or (3) the management or organisational structure of the Contractor’s business (an organisational reason);
Employer Contribution	Means all sums due to the Schemes in respect of Authority Employees whether by the Contractor or any Sub-Contractor in accordance with clauses 7.1.5 and 7.1.7 of the Admissions Agreement as increased in accordance with clause 8 of the Admissions Agreement;
Equality of Information Pricing Statement	Means the Equality of Information Pricing Statement, at Appendix 1 to Annex B this Schedule 3, which outlines the basis upon which a price was agreed;
Government Profit Formula (“ <b>GPF</b> ”)	Means the Government Profit Formula agreed between the Authority and industry and used to determine the profit included in the price of non-competitive contracts (and non-competitive amendments to contracts placed by competition) for risk based contracts;
Overhead	Means the ongoing administrative expenses of the Contract, the costs categorised as overhead being in accordance with the QMAC;
Terminal Redundancy	Has the meaning set out in paragraph 10 of this Schedule 3;

**2. Introduction**

2.1 The Contract Price for the Contract Period is subject to the terms of this Contract.

2.2 In accordance with DEFCON 513 (VAT), the Contract Price excludes any UK output VAT and similar EU (or non-EU) taxes, chargeable on the provision of the Services by the Contractor to the Authority.

2.3 The principles of presumed inclusion as set out in clause 28 (Contract Price) of this Contract shall apply.

2.4 Pricing assumptions in respect of the Contract Price are set out in Annex A. In the event that a change to this Contract is identified in accordance with Schedule 5 (Change and Change Management), the impact of which is not included within the pricing assumptions, then the provisions of Schedule 6 (Pricing of Change) shall apply.

### **3. Equality of Information**

3.1 In agreeing the Contract Price, the Authority and the Contractor acknowledge that they have both relied on the information and representations contained in the Equality of Information Pricing Statement signed by both Parties and attached at Appendix 1 to this Annex B.

3.2 If it appears to the Authority or the Contractor that the information referred to in the joint Equality of Information Pricing Statement agreed and appended to this Contract has proved to be materially inaccurate or incomplete or if there are any misinterpretations, negligence or other breach of legal duty in or in connection with that statement other than a breach of confidence, and the Parties cannot reach agreement by negotiation, then neither Party shall have any right of remedy against the other save that it may make a reference to the dispute resolution procedure in DEFCON 530 (Dispute Resolution).

3.3 Neither Party shall, however, be entitled to a rescission or avoidance of the Contract by reason of any misrepresentations or breach of the Equality of Information Pricing Statement.

### **4. Contract**

4.1 The Contract Prices are set out at Annex C and, subject to the provisions of Schedule 10, shall be paid in accordance with provisions of Annex D.

4.2 Where the Contract Price is adjusted as a result of change in accordance with Schedule 5 (Change and Change Management) and Schedule 6 (Pricing of Change) or the Value for Money and Benchmarking Exercise at Contract clauses 24 and 25, Annex C shall be amended to reflect the change to the Contract Price.

### **5. Open Book**

5.1 In accordance with the provisions of DEFCON 812 (Open Book) and clause 26 (Open Book Accounting and Audit), the Contractor shall permit such particulars of the Contract Price and payment to be verified by the Authority or its authorised representatives by inspection and interrogation of the Contractor's books, accounts, documents and other records including any management information systems.

5.2 The Contractor shall maintain such information as the Authority may reasonably require in order that it is satisfied that prices paid by the Contractor to Sub-Contractors and suppliers are fair and reasonable having regard to all the circumstances, and, on request, shall furnish such information to the Authority within 30 Business Days of the request being made.

## **6. Contract Review**

6.1 In accordance with Contract clauses 22 (Contract Review), 24 (Value for Money Review) and 25 (Benchmarking), the Parties shall conduct a review to ensure that the delivery of the Services continues to represent good value for money (“The Review”).

6.2 The Review may give rise to an adjustment of the Contract Price.

6.3 Where re-pricing occurs in accordance with clauses 22, 24 and 25, the Parties shall, within the resultant amendment to this Contract, adjust the remaining Monthly Sums for the Contract to take account of the sums already paid in order to ensure that the Annual Price paid for Contract does not exceed the revised Annual Price for that Contract Year.

## **7. ETO Redundancy**

7.1 The Contract Price includes a sum in respect of the estimated cost of redundancy for Contractor Employees and Ex-Authority Employees made redundant during the implementation of the Contractor’s solution and is declared in the Implementation Plan.

## **8. Redundancy as a result of Change**

### Routine Change

8.1 In the event that the Contractor is required to make redundancies as a result of Routine Change, the Contract Price shall be amended to include the estimated redundancy costs.

### Break of Task

8.2 In the event that the Contractor is required to make redundancies as a result of a Break of Task, the Contract Price shall be amended to include the actual redundancy costs.

### Authority Approved CI

8.3 In the event that the Contractor is required to make redundancies as a result of Authority Approved CI, the Contract Price shall be amended in accordance with paragraph 8 of Annex B to Schedule 4 (Change and Change Management) and the Contractor shall be entitled to recover the actual cost of such redundancies within the agreement of the amended Contract Price.

## **9. Redundancy as a result of Contractor CI**

9.1 In the event that the Contractor elects to implement redundancies as a result of Contractor CI, the Contract Price will not be amended to reflect the redundancy costs associated with Contractor CI. The Contractor shall be entitled to recover the actual costs of such redundancies as an allowable cost in the Interim Certified Cost Statement.

## **10. Terminal Redundancy**

10.1 On expiry of the Contract and in the event that a Follow-on Contract is not awarded, payments of any appropriate redundancy and relocation compensation are the responsibility of the Contractor (**“Terminal Redundancy”**).

OR

10.2 On expiry of the Contract and in the event that a Follow-on Contract is not awarded, payments of any appropriate redundancy and relocation compensation are the responsibility of the Contractor (**“Terminal Redundancy”**) except where the Authority has indemnified the Contractor in respect of Terminal Redundancy in respect of Ex Authority Employees.

## **11. Employer Contributions**

11.1 The Contract Price is based on the Employers Contribution as outlined in the Admissions Agreement. In the event that the Employer Contributions are amended the Contractor may request a change to the Contract Price to reflect the revised Employer Contribution Rates based on a “Pass through” basis only (ie. without the application of overhead and profit).

## **12. Price Fixing**

12.1 The Provisions of DEFCON 643 (Price Fixing – Non Qualifying Contracts) shall apply to the agreement of change to the Contract Price 13. Remedy Limitation

13.1 This paragraph 13 applies where the Contract Price or any amendment to the Contract Price is the subject of an Equality of Information Pricing Statement recording the basis of the price agreement.

13.2 If it appears to the Authority or the Contractor that the information referred to in the Equality of Information Pricing Statement has proved to be materially inaccurate or incomplete or if there is any misrepresentation, negligence or other breach of legal duty in or in connection with that Equality of Information Pricing Statement other than a breach of confidence, and the Parties cannot reach agreement by negotiation, then neither Party shall have any right or remedy against the other save that it may make a reference to the Review Board for determination of what adjustment (if any) should be made to the Contract Price and whether any payment or repayment should as a consequence be made. In particular, except in the case of fraudulent misrepresentation, neither Party shall be entitled to rescission or avoidance of this Contract by reason of misrepresentation or breach of the Equality of Information Pricing Statement.

## **14. Payment**

14.1 The provisions at Annex D shall apply to payment.